

**UNITED STATES DISTRICT COURT  
FOR THE  
EASTERN DISTRICT OF MICHIGAN**

**RICHARD DAMOTH,**

Plaintiff,

**V.**

**Case No.:**

## CONSERVE,

## COMPLAINT AND DEMAND FOR JURY TRIAL

Defendant.

### 3.) (Unlawful Debt Collection Practices)

## COMPLAINT

RICHARD DAMOTH (“Plaintiff”), by and through his attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against CONSERVE (“Defendant”):

## INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692 *et seq.*

## JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. §1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28U.S.C. §1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

3. Defendant conducts business in the State of Michigan, and as such, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. §1391 (b)(2).

## PARTIES

5. Plaintiff is a natural person residing in Sterling Heights, Michigan 48310.



1           17. Plaintiff has been making monthly payments to Defendant, but Defendant's  
2 collectors have been demanding that Plaintiff pay more per month.

3           18. In September 2015, Plaintiff spoke to Defendant's collector and told them to stop  
4 calling him regarding this debt.

5           19. Defendant's representatives have ignored Plaintiff's requests that the calls stop  
6 and have continued to call Plaintiff.

7           20. After Plaintiff's request to stop calling him was ignored by Defendant's  
8 collectors, he was forced to block calls from their number.

9           21. Defendant's actions as described herein were taken with the intent to harass,  
10 upset and coerce payment from Plaintiff.

11  
12                                   **COUNT I**  
                                  **DEFENDANT VIOLATED §1692d OF THE FDCPA**

13           22. A debt collector violates §1692d of the FDCPA by engaging in conduct the  
14 natural consequence is to harass, oppress, or abuse any person in connection with the collection  
15 of a debt.

16           23. Defendant violated §1692d when it placed repeated and harassing telephone  
17 calls to Plaintiff's cellular telephone, and continuing to call after Plaintiff requested the calls  
18 cease in September 2015.

19  
20                                   **COUNT II**  
                                  **DEFENDANT VIOLATED §1692d(5) OF THE FDCPA**

21           24. A debt collector violates §1692 (d)(5) of the FDCPA by causing a telephone to  
22 ring or engaging any person in telephone conversation repeatedly or continuously with the  
23 intent to annoy, abuse or harass any person at the called number.

1           25.       Here, Defendant violated §1692 (d)(5) of the FDCPA when it placed repeated  
2 and harassing telephone calls to Plaintiff's cellular telephone, and continuing to call after  
3 Plaintiff requested the calls cease in September 2015.

4           WHEREFORE, Plaintiff, RICHARD DAMOTH, respectfully prays for a judgment as  
5 follows:

- 6
- 7           a.       All actual damages suffered by Plaintiff pursuant to 15 U.S.C.
- 8           §1692 (k)(a)(1);
- 9           b.       Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant
- 10          to 15 U.S.C. §1692 (k)(a)(2)(A);
- 11          c.       All reasonable attorneys' fees, witness fees, court costs and other
- 12          litigation expenses incurred by Plaintiff pursuant to 15 U.S.C. §1693 (k)(a)(3);
- 13          and
- 14          d.       Any other relief deemed appropriate by this Honorable Court.
- 15

16                   **DEMAND FOR JURY TRIAL**

17          PLEASE TAKE NOTICE that Plaintiff, RICHARD DAMOTH, demands a jury trial in  
18 this case.

19                               Respectfully submitted,

20   Dated: May 16, 2016           By:   /s/ Amy L. Bennecoff Ginsburg, Esq.  
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